THE TRAVANCORE INSOLVENCY BILL.

Mr. Subba Iyer.—"Sir, I beg to introduce a Bill relating to the Law of Insolvency in Travancore. The Law of Insolvency, if there is any, in Travancore, is contained in Chapter XX of the Civil Procedure Code. Under the existing law, if a judgment-debtor is arrested or imprisoned in execution of a decree for money, he may apply to a Civil Court for his discharge. Among other particulars he has to give a list of his properties, expressing his willingness, at the same time, to place them at the disposal of the Court. Notice is then given to the decree-holder, and, if after hearing him, the Court is satisfied about the truth of the application, it passes an order of discharge. A defendant once discharged cannot be imprisoned on account of the same decree, but his property is liable, under the ordinary rules, to attachment and sale. Thus then, the insolvency proceedings is one between the judgment-debtor and the decree-holder. The other creditors are not benefited, nor does the judgment-debtor get immunity from arrest or imprisonment except with reference to the particular decree which formed the subject-matter of the proceeding. Though our Civil Procedure Code is drafted mainly on the lines of the British Indian Act, XIV of 1882, all the provisions of Chapter XX relating to insolvent judgment-debtors in the British Indian Act have not been adopted. Under the British Indian Code, a judgment-debtor whose property is attached may also apply to be declared an insolvent. This right is also extended to any decree-holder for money against the same judgment-debtor. Again, when once an application is put in, all the creditors of the insolvent are allowed to appear and substantiate their claims. A schedule of the debts proved is prepared by the Court and the creditors who have proved their claims are entitled to a ratable distribution of the assets of the insolvents and the insolvent himself is free from liability to arrest or imprisonment on account of such debts. Though the provisions contained in the British Indian Civil Procedure Code are more elaborate than ours, they were found very defective and not suitable to modern conditions. The law does not afford adequate relief either to the creditor or to the insolvent. The creditors who have not obtained decrees cannot apply for insolvency proceedings being taken. The debtor does not get immunity from arrest except with reference to the schedule debts. The insolvent does not get a complete discharge even though he acted honestly through-out and the insolvency was brought about by circumstances beyond his control. To remove these defects, the Provincial Insolvency Act, III of 1907, was passed. The provisions of our Civil Procedure Code do not give adequate relief either to the debtor or to the creditor, and it may be said that we have practically no law for insolvency in Travancore. Of late, failures of many hundi firms have taken place with the result that a large number of creditors of the insolvents have been put to unnecessary expense and delay. About a couple of years ago, one of the creditors of an insolvent firm moved the District Court of Trivandrum to start insolvency proceedings. Though there is no provision in the Civil Procedure Code, the District Judge held that he had inherent jurisdiction in insolvency matters in the absence of any legislative enactment to the contrary, and on a reference to the High Court, it was ruled that Civil Courts of this State had no jurisdiction to entertain and dispose of petitions in insolvency matters otherwise than as provided for in Chapter XX of the Code of Civil Procedure. The learned Chief Justice has, in his lucid and exhaustive Judgment, pointed out the difference between the British Indian and Travancore law and the defects in the existing Civil Procedure Code. Subsequent to this decision, representation was made at the last Assembly that the absence of an Insolvency Law was very much felt. It will thus be seen that legislation on the subject of insolvency is very urgently needed, and a Bill has therefore been drafted on the lines of the Provincial Insolvency Act, III of 1907. The Bill has appeared in the Gazette and I need not detain the Council by enumerating the main provisions of the Bill. I therefore beg to move that the principle of the Bill be affirmed by the Council."

Seconded by Mr. Vieyra.

Carried.

Mr. Subba Iyer then moved that the Bill be referred to a Select Committee consisting of Mr. Subrahmanya Iyer, Mr. Sesha Iyer, Mr. Kesava Pillai and the Mover for report within two months.

Seconded by Mr. Krishnan Nair.

Carried.

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